IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15189 of 2004

Between:

1 Badam Kumar, s/o Bhaskara Rao,
R/o D.No.30-4-22, Kasikayalavari Veedhi, 26th Ward,
Suryanarayanapuram, Kakinada, E.G.District.
2 Chottangi Ramana, s/o Satyam,
R/o D.No.17-10-310, Kothapakalu, Suryanagar,
Kakinada-1, E.G.District.
3 Baggu Ramu, s/o Venkata Ramana,
Nani Apartments, Plot No.F1, Market Street, Kakinada,
E.G.District.
4 Challa Sai, s/o Ramana,
Ratna Tea Stall, D.No.28-4-1A, Market Street,

Kakinada-1, E.G.District.
5 Ganja Prasad, s/o Satyanarayana,
Satya Naga Seat Covers Works, D.No.28-4-1A, Market
Street, Kakinada-1, E.G.District.
6 Kaala Satya Suryanarayana, s/o Apparao,
R/o D.No.18-16-49, Mantripragada Vari Street,
Kakinada-1, E.G.District.
7 Lokareddi Trinadha Vijaya Kumar, s/o Suryanarayana,
R/o D.No.28-5-3, Aadurivari Lane, Opp:Santha Cheruvu
School, Market Street, Kakinada-1, E.G.District.
8 Medisetti Thirumala Rao, s/o Subramanyam,
R/o D.No.17-2-9, A.M.G.School Road, Sanjay Nagar,
Kakinada, E.G.District.
9 Chintalapudi Satyanarayana, s/o Subba Rao,
D.No.28-4-1A, Market Street, Kakinada-1, E.G.District.

..... PETITIONERS

AND

1 Government of Andhra Pradesh rep., by its Principal
Secretary, Municipal Administration,

Secretariat Buildings, Hyderabad.
2 Kakinada Municipality, rep., by its Commissioner, Kakinada,
East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction, declaring the inaction of the second respondent is illegal and unconstitutional and violative of principles of natural justice by not considering our request for allotment of shops in the proposed complex which are going to be constructed in the same place where we are doing our business since more than 15 long years i.e., more than statutory period

Counsel for the Petitioners: MRS.D.GEETHA

Counsel for the Respondents: GP FOR MUNCIPAL ADMN. & URBAN DEV.

The Court made the following ORDER:

None appears for the respondents.

The case of the petitioners is that they had erected temporary huts at Kakinada Market for doing petty business and they are in possession of the same for the last fifteen years. It is stated that the respondents have passed a resolution to construct a shopping complex around 'Santha Cheruvu' and in that process, they are likely to be evicted from the place where they have erected the huts, without following due process of law.

The learned counsel for the petitioners contends that without any prior notice and

giving assurance to the petitioners for rehabilitation in the newly constructed complex, the respondents cannot remove them. She further contends that according to law, the encroachers, are also entitled for notice and without giving any notice to them, the respondents cannot evict them from the place in question.

The petitioners cannot claim rehabilitation, unless they are in long standing possession and the scheme provides for any such rehabilitation. In view of the same, the second respondent – Municipality without following due process contemplated under the law, cannot dispossess the petitioners.

The writ petition is accordingly disposed of with the above directions. No costs.

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A.Gopal Reddy, J

Date: 26.08.2004

Note: Furnish CC by tomorrow

B/o.

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To

1 The Principal Secretary, Government of Andhra Pradesh
Municipal Administration, Secretariat Buildings, Hyderabad.
2 The Commissioner, Kakinada Municipality, Kakinada,
East Godavari District.

3 Two CCs to G.P. for Municipal Administration and Urban
Development, High Court of A.P. Buildings,
Hyderabad(OUT)

4 Two CD Copies